

Assembly Bill No. 2760

CHAPTER 431

An act to amend Sections 1053, 1055, 1055.1, 1055.5, 1056, 1060, 2003, 7151, 7360, 7852.4, 7920, 8235, 8392, 8405.1, 8405.4, 8597, 9000, 9001.7, 9001.8, 9006, 13005, 15103, and 15104 of, to add Sections 1055.4, 9000.5, 9027, 9027.5, and 9029.5 to, to repeal Section 9001.5 of, and to repeal and add Section 9001.6 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 9, 2004. Filed
with Secretary of State September 9, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2760, Berg. Fish and game: licensing and entitlements.

(1) Under existing law, licenses, license tags, license stamps, permits, certificates, and other entitlements are issued by the Department of Fish and Game for specified fees that authorize various activities relating to taking and possession of marine resources for purposes other than commercial purposes.

This bill would change the requirements for issuing, possessing, replacing, and renewing certain entitlements and for transacting business as a license agent for the purpose of issuing those entitlements. This bill would impose new or additional fees or penalties in connection with those entitlements.

(2) Existing law makes it unlawful for any person to offer any prize or other inducement as a reward for the taking of any game birds, mammals, fish, reptiles, or amphibians in an individual contest, tournament, or derby, except under a permit issued by the department, but exempts from that prohibition any contest that is a frog-jumping contest or a fish contest conducted in the Pacific Ocean.

This bill would also exempt from that prohibition any person conducting an individual contest, tournament, or derby for the taking of game birds and mammals, if the total value of all prizes or other inducements is less than \$500 for each contest, tournament, or derby.

(3) Existing law requires the department to issue a sport fishing license, free of charge and valid for the calendar year of issue, to any blind person, resident Native American who is financially unable to pay the fee, ward of the state who is a patient and resident in a state hospital, developmentally disabled person receiving services from a regional center for the developmentally disabled, or physically disabled person utilizing a mobility-related device.

This bill would repeal the requirement that the department issue that license free of charge to a ward of the state from a state hospital. The bill would repeal the requirement that a developmentally disabled person be receiving services from a regional center for the developmentally disabled to be eligible for a free sport fishing license. The bill would make sport fishing licenses issued pursuant to those provisions to resident Native Americans valid for one year, and would make those issued pursuant to those provisions to blind persons, and developmentally and physically disabled persons valid for 5 calendar years.

(4) Existing law requires the department to issue a commercial fishing license to any resident and nonresident who is 16 years of age or older, upon payment of a specified base fee for each resident and nonresident vessel crewmember or vessel operator.

This bill would delete obsolete cross-references in existing law, and would require the owner of any vessel upon which a person who is at least 16, but less than 18, years of age, and who has been issued a commercial fishing license pursuant to those provisions, to obtain a policy of insurance that provides indemnification to that licensee in case of accident or injury, and to maintain that policy at all times that the licensee is working on or about the vessel.

(5) Existing law prohibits the department from issuing a sea cucumber permit until the applicant's eligibility has been verified through either landing receipts or other documentation. Existing law requires applicants for a sea cucumber permit to specify the method by which the applicant intends to take sea cucumbers, to pay a fee of \$250, and to complete and submit an accurate record of all sea cucumber fishing activities to the department. Existing law requires, in order to renew a sea cucumber permit commencing on or after April 1, 1998, that an applicant have been issued a sea cucumber permit in the immediately preceding permit year. Existing law makes these provisions, and all related provisions regarding sea cucumber permits, inoperative on April 1, 2005, and repeals those provisions on January 1, 2006.

This bill would instead make the sea cucumber permitting provisions inoperative on April 1, 2010, and would instead repeal those provisions on January 1, 2011. The bill would repeal the requirement that the applicant's eligibility be verified through either landing receipts or other documentation prior to the department issuing a sea cucumber permit. The bill would delete and update obsolete dates and references in existing law.

(6) Existing law prohibits the use of traps to take finfish, including hagfish and sablefish, in ocean waters, except as authorized. Existing law prohibits the taking of finfish, other than sablefish and hagfish, with



traps for commercial purposes in certain areas off the coast of the state, except under a valid finfish trap permit issued by the department, and imposes various limitations on the taking of finfish with finfish traps. Existing law makes those provisions inoperative on April 1, 2005, and repeals those provisions on January 1, 2006.

This bill would repeal those provisions, and would instead provide that hagfish may be taken under a general trap permit if certain conditions are met. The bill would limit the use and number of Korean traps, as defined, and bucket traps, as defined, to take hagfish.

The bill would authorize the taking of finfish, other than sablefish and hagfish, under a general trap permit, if every person aboard the vessel possesses a valid general trap permit, and if nearshore or deeper nearshore species are present, if at least one person aboard the vessel has a valid nearshore or deeper nearshore fishery permit and fishery trap endorsement, as applicable. The bill would impose specified requirements on the use, number, and location of traps, and would prohibit the use of specified fish as bait in finfish traps.

The bill would authorize the taking of sablefish under a general trap permit in specified areas of ocean waters, if the trap meets specified size restrictions and is used subject to certain ocean depth restrictions. The bill would prohibit the possession of sablefish traps and any other commercial fishing gear, except for spot prawn traps that are possessed during spot prawn traps open fishing periods established by the commission and for which the permittee has a valid permit.

The bill would require every trap used to take finfish or crustaceans to be marked with a buoy to identify the operator based on the type of fish to be taken by the trap.

(7) Existing law prohibits the taking, possessing, or selling of California halibut that measures less than 22 inches in total length, unless it meets certain weight requirements, and prohibits the possession of more than 4 of those fish aboard a boat for noncommercial use at any time, if taken incidentally with a gill net, trammel net, or trawl net while commercial fishing.

This bill would eliminate that weight requirement for the taking, possessing or selling of California halibut, and would delete those provisions prohibiting the possession of more than 4 fish.

(8) Existing law regulates the type of hook-and-line fishing gear that may be used to take fish for commercial purposes.

This bill would impose new requirements for the use of certain hooks and lines on vessels used to take fish for commercial purposes.

(9) Fees collected for the above entitlements are deposited in the Fish and Game Preservation Fund, a fund continuously appropriated to the



department and the Fish and Game Commission to carry out the Fish and Game Code and to pay the expenses of those entities.

Because the bill would impose new duties on the department and the commission, the bill would make an appropriation, and, to the extent that the bill would result in additional money from fees and penalties being deposited in the fund, the bill would also make an appropriation.

(10) Existing law makes a violation of a provision of the Fish and Game Code a crime.

To the extent that the new procedures in the bill would redefine crimes related to issuing, possessing, replacing, or renewing the entitlements or the requirements for transacting business as a license agent, or conducting certain fishing operations, the bill would impose a state-mandated local program.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1053 of the Fish and Game Code is amended to read:

1053. No person shall obtain more than one license, permit, reservation, or other entitlement of the same class, or more than the number of tags authorized by statute or regulation for the same license year, except under one of the following conditions:

(a) Licenses issued pursuant to paragraphs (3), (4) and (5) of subdivision (a) of Section 7149, paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05, and paragraphs (4) and (5) of subdivision (a) of Section 3031.

(b) The loss or destruction of an unexpired license, tag, permit, reservation, or other entitlement as certified by the applicant's signed affidavit and proof, as determined by the department, that the original license, tag, permit, reservation, or other entitlement was issued, and payment of a base fee of five dollars (\$5), adjusted pursuant to Section 713, not to exceed the fee for the original entitlement.

(c) The adjustment of the base fee pursuant to Section 713 applies to the hunting license years commencing on or after July 1, 1996, and the fishing license years commencing on or after January 1, 1996.



SEC. 2. Section 1055 of the Fish and Game Code is amended to read:

1055. (a) Any person, except a commissioner, officer, or employee of the department, may submit an application to the department, to be a license agent to issue licenses, permits, reservations, tags, and other entitlements.

(b) A person shall only be authorized to be a license agent to issue licenses, permits, reservations, tags, and other entitlements, upon the written approval of the department.

(c) The department may consign licenses, permits, reservations, tags, and other entitlements to authorized license agents.

(d) The department may provide licenses, permits, reservations, tags, or other entitlements to authorized license agents and shall collect prior to delivery an amount equal to the fees for all licenses, permits, reservations, tags, and other entitlements that are provided. Any license agent who pays the fees prior to delivery for licenses, permits, reservations, tags, or other entitlements is exempt from subdivisions (a) and (d) of Section 1055.5 and Sections 1056, 1057, and 1059. Any licenses, permits, reservations, tags, or other entitlements provided pursuant to this subdivision that remain unissued at the end of the license year may be returned to the department for refund or credit, or a combination thereof within six months of the item expiration date. No credit may be allowed after six months following the last day of the license year.

(e) Licenses, permits, reservations, tags, and other entitlements may only be provided to authorized license agents that are in compliance with all laws, regulations, and policies governing the sale and reporting of licenses, permits, reservations, tags, and other entitlements.

(f) Authorized license agents shall add a handling charge to the fees prescribed in this code or in regulations adopted pursuant to this code for licenses, permits, reservations, tags, and other entitlements issued by the license agent in an amount that is 5 percent of the face value of the item rounded to the nearest five cents (\$0.05).

(g) The handling charge added pursuant to subdivision (f) shall be incorporated into the total amount collected for issuing any license, permit, reservation, tag, and other entitlement, but the handling charge may not be included when determining license fees in accordance with Section 713. License agents may issue any license, permit, reservation, tag, and other entitlement for any amount up to 10 percent less than the fee prescribed in this code or in regulations adopted pursuant to this code. The license agent shall remit to the department the full amount of the fees as prescribed in this code or in regulations adopted pursuant to

this code for all licenses, permits, reservations, tags, and other entitlements issued.

(h) The handling charge in subdivision (f) is the license agent's only compensation for services. The license agent shall not be entitled to any other additional fee or charge for issuing licenses, permits, reservations, tags, and other entitlements authorized pursuant to this section.

(i) The department may designate a nonprofit organization, organized pursuant to the laws of this state, or the California chapter of a nonprofit organization, organized pursuant to the laws of another state, as a license agent for the sale of lifetime licenses issued pursuant to Sections 714, 3031.2, and 7149.2. These licenses may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code. An agent authorized to issue lifetime sport fishing licenses, lifetime hunting licenses, and lifetime sportsman's licenses under this subdivision is exempt from subdivisions (f) and (h). The license agent shall remit to the department the fees from the sale of lifetime licenses, as defined in Sections 714, 3031.2, and 7149.2.

(j) At any single business location, a license agent shall issue all items from a single book before commencing to issue licenses, permits, reservations, tags, or other entitlements of the same series from another book.

(k) License agents that receive licenses, permits, reservations, tags, and other entitlements pursuant to subdivision (c) shall return all unissued and expired licenses, permits, reservations, tags, and other entitlements to the department within 20 days following the last day of the license year. Any unissued and expired license, permit, reservation, tag, or other entitlement that is not returned within 60 days following the last day of the license year shall be billed to the license agent. Licenses, permits, reservations, tags, and other entitlements may be returned for credit after the 60 days; however, the license agent shall pay interest and penalties on any sold licenses, permits, reservations, tags, and other entitlements as prescribed in subdivision (b) of Section 1059. No credit may be allowed after six months following the last day of the license year.

(l) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

SEC. 3. Section 1055.1 of the Fish and Game Code is amended to read:

1055.1. (a) Any person, except a commissioner, officer, or employee of the department, may submit an application to the department to be a license agent to issue licenses, permits, reservations, tags, or other entitlements.



(b) A person shall only be authorized to be a license agent to issue licenses, permits, reservations, tags, and other entitlements, upon the written approval of the department.

(c) The department may provide licenses, permits, reservations, tags, or other entitlements to authorized license agents and shall collect, prior to delivery, an amount equal to the fees for all licenses, permits, reservations, tags and other entitlements provided. Any license agent who pays the fees prior to delivery for licenses, permits, reservations, tags, or other entitlements is exempt from subdivisions (a) and (e) of Section 1055.5 and Sections 1056, 1057, and 1059. Any licenses, permits, reservations, tags, or other entitlements provided pursuant to this subdivision that remain unissued at the end of the license year may be returned to the department for refund or credit, or a combination thereof, within six months of the item expiration date. No credit may be allowed after six months following the last day of the license year.

(d) Authorized license agents shall add a handling charge to the fees prescribed in this code or in regulations adopted pursuant to this code for any license, permit, reservation, tag, and other entitlement issued by the license agent in an amount that is 5 percent of the face value of the item rounded to the nearest five cents (\$0.05).

(e) The handling charge added pursuant to subdivision (d) shall be incorporated into the total amount collected for issuing the license, permit, reservation, tag, and other entitlement, but the handling charge shall not be included when determining license fees in accordance with Section 713. A license agent may issue any license, permit, reservation, tag, or other entitlement for any amount up to 10 percent less than the fee prescribed in this code or in regulations adopted pursuant to this code. The license agent shall remit to the department the full amount of the fees as prescribed in this code or in regulations adopted pursuant to this code for all licenses, permits, reservations, tags, and other entitlements issued.

(f) The handling charge required by subdivision (d) is the license agent's only compensation for services. The license agent shall not be entitled to any other additional fee or charge for issuing any license, permit, reservation, tag, or other entitlement authorized pursuant to this section.

(g) The department may designate a nonprofit organization, organized pursuant to the laws of this state, or the California chapter of a nonprofit organization, organized pursuant to the laws of another state, as a license agent for the sale of lifetime licenses issued pursuant to Sections 714, 3031.2, and 7149.2. These licenses may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code. An agent authorized to issue lifetime sport fishing licenses,



lifetime hunting licenses, and lifetime sportsman's licenses under this subdivision is exempt from subdivisions (d) and (f). The license agent shall remit to the department the fees from the sale of lifetime licenses as defined in Sections 714, 3031.2, and 7149.2.

(h) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

SEC. 4. Section 1055.4 is added to the Fish and Game Code, to read:

1055.4. Any person authorized pursuant to Section 1055 who submits a check or money order for payment of licenses, permits, reservations, tags, and other entitlements that is returned unpaid by the bank or financial institution it was drawn upon shall be required to pay a fee of thirty dollars (\$30), plus any penalty and interest charges, as defined in Section 1059.

SEC. 5. Section 1055.5 of the Fish and Game Code is amended to read:

1055.5. (a) Except as provided in subdivision (b) or (c), each authorized license agent who receives licenses, permits, reservations, tags, and other entitlements, pursuant to subdivision (c) of Section 1055, shall remit to the department the fees prescribed in this code or in regulations adopted pursuant to this code for all licenses, permits, reservations, tags, and other entitlements issued in each calendar month not later than 20 days following the last day of that calendar month. The transmittal of the fees to the department shall be accompanied with an accounting report on forms provided by the department of all licenses, permits, reservations, tags, and other entitlements issued during the preceding month.

(b) A license agent is not required to remit the fees for a book of licenses, permits, reservations, tags, or other entitlements in any month if, on the last day of the preceding month, all items in that single book provided for issuance at a single business location are not issued or expired. If, however, all items in that book are issued or expired, the license agent shall remit the fees for that book and transmit the accounting report in accordance with the requirements of this section.

(c) The license agent may retain not more than fifteen cents (\$0.15) of the fee received for each Colorado River special use stamp issued pursuant to Section 7180 as compensation for services. The license agent shall remit to the department the fees prescribed by Section 7180, less any amounts retained under this subdivision, for all Colorado River special use stamps issued. The license agent shall remit the net fees with an accounting report as prescribed in subdivision (a).

(d) Except as provided in subdivision (c), any fee remittance and accounting report not transmitted to the department within 30 days



following the last day of each calendar month is delinquent, and fees due are subject to interest and penalties prescribed in subdivision (b) of Section 1059. Interest and penalties shall be computed beginning 21 days following the last day of the calendar month in which the fees were collected.

(e) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

SEC. 6. Section 1056 of the Fish and Game Code is amended to read:

1056. (a) Authorized license agents who receive licenses, permits, reservations, tags, and other entitlements pursuant to subdivision (c) of Section 1055 may be required to execute, in favor of the department, a bond, payable to the department, in a sum determined by the department. The bond shall secure the accurate accounting and payment to the department of the funds collected and the performance of the duties imposed upon the license agent by this article.

(b) Any license agent who fails to transmit the fees or accounting reports required by Section 1055.5 or 1055.6 not later than 60 days following the due date as specified by the department may be required to provide a bond pursuant to subdivision (a) in order to continue as a license agent.

SEC. 7. Section 1060 of the Fish and Game Code is amended to read:

1060. (a) The department may accept from any authorized license agent an affidavit for settlement on its account in lieu of licenses, permits, reservations, tags, and other entitlements that have been lost or destroyed if the license agent meets the following criteria:

(1) Reports any losses of licenses, permits, reservations, tags, or other entitlements to the department on or before the end of the next business day of the department.

(2) Submits the following items to the department not more than 20 days following the last day of the calendar month in which the items were lost or destroyed:

(A) An accounting report listing all licenses, permits, reservations, tags, and other entitlements that were lost or destroyed.

(B) A signed and notarized affidavit that shows the value and type of the licenses, permits, reservations, tags, and other entitlements, their serial numbers, and the causes of loss or destruction.

(b) This section does not apply to licenses, permits, reservations, tags, or other entitlements that are issued through the Automated License Data System.



SEC. 8. Section 2003 of the Fish and Game Code is amended to read:

2003. (a) Except as specified in subdivisions (b), (c), and (d), it is unlawful to offer any prize or other inducement as a reward for the taking of any game birds, mammals, fish, reptiles, or amphibians in an individual contest, tournament, or derby.

(b) The department may issue a permit to any person authorizing that person to offer a prize or other inducement as a reward for the taking of any game fish, as defined by the commission by regulation, if it finds that there would be no detriment to the resource. The permit is subject to regulations adopted by the commission. The application for the permit shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit. However, the department may waive the permit fee if the contest, tournament, or derby is for persons under the age of 16 years, or who are physically or mentally challenged, the primary purpose of the contest, tournament, or derby is to introduce young anglers to, or educate them about fishing. All permits for which the fee is waived pursuant to this subdivision shall comply with all other requirements set forth in this section.

(c) This section does not apply to any person conducting what are generally known as frog-jumping contests or fish contests conducted in waters of the Pacific Ocean.

(d) This section does not apply to any person conducting an individual contest, tournament, or derby for the taking of game birds and mammals, if the total value of all prizes or other inducements is less than five hundred dollars (\$500) for the individual contest, tournament, or derby.

SEC. 9. Section 7151 of the Fish and Game Code is amended to read:

7151. (a) Upon application to the department, the following persons, if they have not been convicted of any violation of this code, shall be issued, free of any charge or fee, a sport fishing license, which authorizes the licensee to take any fish, reptile, or amphibian anywhere in this state for purposes other than profit:

(1) Any blind person upon presentation of proof of blindness. "Blind person" means a person with central visual acuity of 20/200 or less in the better eye, with the aid of the best possible correcting glasses, or central visual acuity better than 20/200 if the widest diameter of the remaining visual field is no greater than 20 degrees. Proof of blindness shall be by certification from a qualified licensed optometrist or ophthalmologist or by presentation of a license issued pursuant to this paragraph in the any previous license year.



(2) Every resident Native American who, in the discretion of the department, is financially unable to pay the fee required for the license.

(3) Any developmentally disabled person, upon presentation of certification of that disability from a qualified licensed physician, or the director of a state regional center for the developmentally disabled.

(4) Any person who is a resident of the state and who is so severely physically disabled as to be permanently unable to move from place to place without the aid of a wheelchair, walker, forearm crutches, or a comparable mobility-related device. Proof of the disability shall be by certification from a licensed physician or surgeon or, by presentation of a license issued pursuant to this paragraph in any previous license year after 1996.

(b) Sport fishing licenses issued pursuant to paragraph (2) of subdivision (a) are valid for the calendar year of issue or, if issued after the beginning of the year, for the remainder thereof.

(c) Sport fishing licenses issued pursuant to paragraphs (1), (3), and (4) of subdivision (a) of this section are valid for five calendar years, or if issued after the beginning of the first year, for the remainder thereof.

(d) Upon application to the department, the department may issue, free of any charge or fee, a sport fishing permit to groups of mentally or physically handicapped persons under the care of a certified federal, state, county, city, or private licensed care center that is a community care facility as defined in subdivision (a) of Section 1502 of the Health and Safety Code, to organizations exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code, or to schools or school districts. Any organization that applies for a group fishing permit shall provide evidence that it is a legitimate private licensed care center, tax-exempt organization, school, or school district. The permit shall be issued to the person in charge of the group and shall be in his or her possession when the group is fishing. Employees of private licensed care centers, tax-exempt organizations, schools, or school districts are exempt from Section 7145 only while assisting physically or mentally disabled persons fishing under the authority of a valid permit issued pursuant to this section. The permit shall include the location where the activity will take place, the date or dates of the activity, and the maximum number of people in the group. The permitholder shall notify the local department office before fishing and indicate where, when, and how long the group will fish.

(e) On January 15 of each year, the department shall determine the number of free sport fishing licenses in effect, during the preceding year under subdivisions (a) and (d).

(f) There shall be appropriated from the General Fund a sum equal to two dollars (\$2) per free sport fishing license in effect during the



preceding license year under subdivisions (a) and (d), as determined by the department pursuant to subdivision (e). That sum may be appropriated annually in the Budget Act for transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act from the Fish and Game Preservation Fund to the department for the purposes of this part.

SEC. 10. Section 7360 of the Fish and Game Code is amended to read:

7360. (a) A person shall not sport fish in the tidal waters of the San Francisco Bay Delta and the main stem of the Sacramento and San Joaquin Rivers, including major tributaries, below the most downstream dam, unless he or she first obtains, in addition to a valid California sport fishing license and any applicable stamp or validation issued pursuant to Section 7149 or 7149.05, a Bay-Delta Sport Fishing Enhancement Stamp or validation and affixes that stamp or validation to his or her valid California sport fishing license. Any person issued a sport fishing license pursuant to paragraph (4) or (5) of subdivision (a) of Section 7149 or paragraph (4) or (5) of subdivision (a) of Section 7149.05 is not subject to this division.

(b) The commission may modify, by regulation, the geographic parameters specified in subdivision (a).

(c) The department or an authorized license agent shall issue a Bay-Delta Sport Fishing Enhancement Stamp or validation upon payment of a base fee of five dollars (\$5), in the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713.

SEC. 11. Section 7852.4 of the Fish and Game Code is amended to read:

7852.4. The owner of a vessel upon which a person who is at least 16, but less than 18, years of age, and who is licensed under Section 7852 is working shall obtain, and maintain in full force and effect at all times that a person is working on or about the vessel, a policy of insurance that provides indemnification to the person licensed under Section 7852 in case of accident or injury while working on or about the vessel.

SEC. 12. Section 7920 of the Fish and Game Code is amended to read:

7920. The owner of any boat or vessel who, for profit, permits any person to take fish, shall procure a commercial passenger fishing boat license.

This article applies only to a boat or vessel whose owner or his or her employee or other representative is with it when it is used for fishing.

A person operating a guide boat, as defined in Section 46, is not required to obtain a commercial passenger fishing boat license.



SEC. 13. Section 8235 of the Fish and Game Code is amended to read:

8235. (a) The owner of a permitted vessel, or that owner's agent, may apply for renewal of the permit annually on or before March 31, upon payment of the fees established under subdivision (b), without penalty. Upon receipt of the application and fees, the department shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

(b) The department shall fix the annual fee for the renewal of the permit in an amount it determines to be necessary to pay the reasonable costs of implementing and administering this article.

(c) If an owner to whom a permit has been issued, or that owner's agent, applies for renewal of the permit, and the application for the renewal is received in an office of the department, or is postmarked if mailed, after March 31 but on or before April 30, the department shall accept the application and, upon payment of an additional late fee of one hundred dollars (\$100), the department shall issue the permit for use of the permitted vessel in the subsequent permit year.

(d) The department shall suspend any late fees otherwise due under subdivision (c) and shall issue a permit for use of the permitted vessel in the subsequent permit year if the department is unable to accept applications for renewal of permits by March 1.

(e) Except as provided in subdivision (c), the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

SEC. 14. Section 8392 of the Fish and Game Code is amended to read:

8392. No California halibut may be taken, possessed, or sold that measures less than 22 inches in total length. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.

SEC. 15. Section 8405.1 of the Fish and Game Code is amended to read:

8405.1.

(a) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.

(b) The fee for a sea cucumber permit shall be two hundred fifty dollars (\$250).



(c) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(d) In order to renew a sea cucumber permit for any permit year, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be received by the department or, if mailed, postmarked, by April 30 of the permit year.

SEC. 16. Section 8405.4 of the Fish and Game Code is amended to read:

8405.4. This article shall become inoperative on April 1, 2010, and as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 17. Section 8597 of the Fish and Game Code is amended to read:

8597. (a) It is unlawful for any person to take, possess aboard a boat, or land for marine aquaria pet trade purposes any live organisms identified in subdivision (b), unless that person has a valid marine aquaria collector's permit that has not been suspended or revoked. At least one person aboard the boat shall have a valid marine aquaria collector permit.

(b) Except as provided in Section 8598.2, and unless otherwise prohibited in this code, or regulations made pursuant thereto, specimens of the following groups or species may be taken, possessed aboard a boat, or landed under a marine aquaria collector's permit:

(1) Marine plants:

(A) Chlorophyta.

(B) Phaeophyta.

(C) Rhodophyta.

(D) Spermatophyta, all species.

(2) Invertebrates:

(A) Polychaeta—worms; all species.

(B) Crustacea—shrimp, crabs; all species, except the following:

(i) Dungeness crab—*Cancer magister*.

(ii) Yellow crab—*Cancer anthonyi*.

(iii) Red crab—*Cancer productus*.

(iv) Sheep crab—*Loxorhynchus grandis*.

(v) Spot prawn—*Pandalus platyceros*.

(vi) Ridgeback prawn—*Sicyonia ingentis*.

(vii) Golden prawn—*Penaeus californiensis*.

(viii) Sand crab—*Emerita analoga*.

(ix) Redrock shrimp—*Lysmata californica*.

(x) Bay shrimp—*Crangon* sp. and *Palaemon macrodactylus*.



- (xi) Ghost shrimp—*Callinassa* sp.
 - (C) Asteroidea—Sea stars; all species.
 - (D) Ophiuroidea—Brittle stars; all species.
 - (E) Gastropoda—snails, limpets, sea slugs; all species, except Kellet's whelk—*Kelletia kelletii*.
 - (F) Bivalvia—clams and mussels; all species.
 - (G) Polyplacophora—Chitons; all species.
 - (H) Cephalopoda—Octopuses and squids; all species, except two spot octopuses—*Octopus bimaculatus* and *Octopus maculoides*—and market squid—*Loligo opalescens*.
 - (I) Tunicata—Sea squirts; all species.
 - (3) Vertebrates:
 - (A) Osteichthyes—Finfishes; all species, except the following:
 - (i) Rockfish—*Sebastes* sp. larger than six inches total length.
 - (ii) Sheephead—*Semicossyphus pulcher* larger than six inches total length.
 - (iii) Anchovy—*Engraulis mordax*.
 - (iv) Sardine—*Sardinops sagax*.
 - (v) Pacific/chub mackerel—*Scomber japonicus*.
 - (vi) Jack mackerel—*Trachurus symmetricus*.
 - (vii) Queenfish—*Seriphus politus*.
 - (viii) White Croaker—*Genyonemus lineatus*.
 - (ix) Top smelt—*Atherinops affinis*.
 - (x) Grunion—*Leuresthes tenuis*.
 - (xi) Shiner surf perch—*Cymatogaster aggregata*.
 - (xii) Longjawed mudsucker—*Gillichthys mirabilis*.
 - (B) Chondrichthyes—sharks, rays, and skates; all species less than 18 inches total length.
 - (c) The holder of a permit issued pursuant to this section is not required to obtain or possess a kelp harvester's license issued pursuant to Section 6651, a tidal invertebrate permit issued pursuant to Section 8500, or a general trap permit issued pursuant to Article 1 (commencing with Section 9000) of Chapter 4, when taking, possessing, or landing live organisms for marine aquaria pet trade purposes pursuant to subdivision (b), subject to regulations governing the taking of tidal invertebrates. The commission shall adopt regulations to implement this subdivision, and, for that purpose, may incorporate other regulations by reference.
- SEC. 18. Section 9000 of the Fish and Game Code is amended to read:
9000. (a) Except as expressly authorized in this article, no person shall use a trap to take any finfish, mollusk, or crustacean in the waters of this state for commercial purposes.

(b) Traps may be used to take finfish in ocean waters only as authorized by this article.

(c) Freshwater baitfish traps that are used as provided in Section 8463 are not subject to this article.

SEC. 19. Section 9000.5 is added to the Fish and Game Code, to read:

9000.5. For the purposes of this article, the following terms have the following meanings:

(a) “Bucket trap” means a plastic bucket of five gallons or less in capacity.

(b) “Deeper nearshore species” means those finfish identified as deeper nearshore species in regulations adopted by the commission pursuant to Section 8587.1.

(c) “General trap permit” means a valid permit to take fish for commercial purposes issued pursuant to Section 9001 that has not been suspended or revoked.

(d) “Korean trap” means a molded plastic cylinder that does not exceed 6 inches in diameter and does not exceed 24 inches in length.

(e) “Nearshore species” means those finfish identified as such in regulations adopted by the commission pursuant to Section 8587.1.

(f) “Popup” means a mechanism capable of releasing a submerged buoy at a predetermined time.

SEC. 20. Section 9001.5 of the Fish and Game Code is repealed.

SEC. 21. Section 9001.6 of the Fish and Game Code is repealed.

SEC. 22. Section 9001.6 is added to the Fish and Game Code, to read:

9001.6. Hagfish may be taken under a general trap permit, if all of the following criteria are met:

(a) Korean traps and bucket traps may be used to take only hagfish under this article.

(b) No more than a total of 500 Korean traps or a total of 200 bucket traps may be possessed aboard a vessel or in the water or combination thereof.

(c) No permittee may possess both Korean traps or bucket traps and other types of traps aboard a vessel at the same time. When Korean traps or bucket traps are being used or possessed aboard a vessel, no species of finfish other than hagfish shall be taken, possessed aboard, or sold for commercial purposes.

(d) Popups shall not be used on buoy lines attached to Korean traps or bucket traps, and shall not be possessed by a commercial fisherman aboard a vessel when taking hagfish.

SEC. 23. Section 9001.7 of the Fish and Game Code is amended to read:

9001.7. Finfish, other than sablefish and hagfish, may be taken under a general trap permit if all of the following criteria are also met:

(a) Every person aboard the vessel possesses a valid general trap permit that has not been suspended or revoked.

(b) If nearshore species are present, at least one person aboard the vessel possesses a valid nearshore fishery permit and a nearshore fishery trap endorsement that has not been suspended or revoked.

(c) If deeper nearshore species are present, at least one person aboard the vessel possesses a valid deeper nearshore species fishery permit that has not been suspended or revoked.

(d) During the period from one hour after sunset to one hour before sunrise, finfish traps that are left in the water shall be unbaited with the door secured open. If, for reasons beyond the control of the permittee, all trap doors cannot be secured open prior to one hour after sunset, the permittee shall immediately notify the department.

(e) Popups shall not be used on buoy lines attached to finfish traps, and shall not be possessed aboard a vessel when taking finfish under a general trap permit.

(f) Trap destruction devices used on finfish traps shall conform to the current regulatory requirements for those devices pursuant to Section 9003 and as adopted by the commission.

(g) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in District 6, 7, 17, 18, 19, 19A, 19B, 20, 20A, 20B, or 21.

(h) No more than 50 finfish traps may be used in state waters along the mainland shore.

(i) The mesh of any finfish trap used pursuant to this section shall measure not less than two inches by two inches.

(j) The following fish shall not be used as bait in finfish traps:

(1) Lobster.

(2) Crabs of the genus *Cancer*, except rock crab, yellow crab, and red crab, as identified in Section 8282, which may be used as bait under the authority of a rock crab trap permit issued pursuant to Section 8282.

(3) Any other finfish or invertebrate to which a minimum size limit applies that is used or possessed in a condition so that its size can not be determined.

(k) Lobster may be possessed aboard or landed from any vessel on which finfish are also present, if every person aboard the vessel has a valid lobster permit that has not been suspended or revoked and complies with Article 5 of Chapter 2 of the Fish and Game Code, this article, and the regulations adopted pursuant thereto.

SEC. 24. Section 9001.8 of the Fish and Game Code is amended to read:

9001.8. Sablefish may be taken under a general trap permit in ocean waters between a line extending due west true from Point Arguello in Santa Barbara County and the United States-Mexico international boundary line, if all of the following criteria are also met:

- (a) The trap shall be six feet or less in its greatest dimension.
- (b) The mesh of any trap used for sablefish pursuant to this section shall measure not less than two inches by two inches.
- (c) The traps may be used only in waters 200 fathoms or deeper.
- (d) No permittee may possess aboard a vessel at the same time, sablefish traps and any other commercial fishing gear, except that spot prawn traps may be possessed during spot prawn trap open fishing periods as established by the commission and if the permittee has a valid spot prawn trap vessel permit that has not been suspended or revoked.

SEC. 25. Section 9006 of the Fish and Game Code is amended to read:

9006. Every trap used to take finfish or crustaceans shall be marked with a buoy. Each buoy shall be marked to identify the operator as follows:

- (a) For a trap used to take lobster the commercial fishing license identification number followed by the letter "P."
- (b) For a trap used to take Dungeness crab or hagfish, the commercial fishing license identification number only.
- (c) For a trap used to take finfish other than sablefish or hagfish, the commercial fishing license identification number followed by the letter "Z."
- (d) For a trap used to take sablefish, the commercial fishing license identification number followed by the letter "B."

SEC. 26. Section 9027 is added to the Fish and Game Code, to read:

9027. (a) (1) Notwithstanding Section 9026, 9028, or 9029, in the area described in subdivision (b), it is unlawful to use more than 150 hooks on a vessel to take a fish for commercial purposes when using fishing lines authorized pursuant to this article.

(2) In the area described in subdivision (b), not more than 15 hooks shall be attached to any one fishing line, and no fishing line shall be attached to another fishing line, while those lines are being used for commercial fishing pursuant to this article except that a single troll line with not more than 30 hooks may be used to take California halibut.

(3) Each fishing line used pursuant to this article that is not attached to a vessel fishing in the area described in subdivision (b) shall be buoyed and the commercial fishing license identification number issued pursuant to Section 7850 to the permittee who is using the fishing line shall be marked on, and visible on the upper one-half of each buoy, in numbers at least two inches high.



(b) This section applies only to waters within one mile of shore within Fish and Game Districts 6, 7, and 10, but not including ocean waters in Fish and Game District 7 between a line extending 203 degrees magnetic from Gitchell Creek and a line extending 252 degrees magnetic from False Cape in Humboldt County and not including ocean waters in Fish and Game District 10 between a line extending 245 degrees magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and a line extending due west magnetic from Point Bolinas in Marin County.

SEC. 27. Section 9027.5 is added to the Fish and Game Code, to read:

9027.5. (a) (1) Notwithstanding Section 9026, 9028, or 9029 in the area described in subdivision (b), it is unlawful to use more than 150 hooks on a vessel to take fish for commercial purposes when using fishing lines authorized pursuant to this article.

(2) In the area described in subdivision (b), not more than 15 hooks shall be attached to any one fishing line, and no fishing line shall be attached to another fishing line, while those lines are being used for commercial fishing pursuant to this article.

(3) Each fishing line used pursuant to this article that is not attached to a vessel fishing in the area described in subdivision (b) shall be buoyed and the commercial fishing license identification number issued pursuant to Section 7852 to the permittee who is using the fishing line shall be marked on, and visible on the upper one-half of each buoy, in numbers not less than two inches in height.

(b) This section applies only to waters within one mile of the mainland shore in Fish and Game Districts 17, 18, and 19.

(c) Subdivision (a) does not apply to persons who are fishing south of a line extending due west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or rays. The exemption in this subdivision does not apply if all of the fish possessed by persons aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass, sharks, skates, and rays.

SEC. 28. Section 9029.5 is added to the Fish and Game Code, to read:

9029.5. Notwithstanding Sections 9025.5, 9026, and 9029, it is unlawful to use set lines, vertical fishing lines, or troll lines to take fish for commercial purposes within one mile of the nearest point of land on the mainland shore in Fish and Game District 7 or 10 from sunset on Friday to sunset on the following Sunday or from sunset of the day before a state recognized legal holiday until sunset on that holiday. For the purposes of this subdivision, a “set line” is a fishing line that is anchored to the bottom on each end and is not free to drift with the tide



or current and a “vertical fishing line” is a fishing line that is anchored to the ocean bottom at one end and attached at the other end on the surface to a fishing vessel or a buoy. This section does not apply to the taking of salmon or California halibut for commercial purposes.

SEC. 29. Section 13005 of the Fish and Game Code is amended to read:

13005. (a) Notwithstanding Section 13001, the fees collected from lifetime sportsman’s licenses and privileges issued pursuant to Section 714, lifetime hunting licenses and privileges issued pursuant to Section 3031.2, and lifetime sport fishing licenses and privileges issued pursuant to Section 7149.2 shall be deposited as follows:

(1) Twenty dollars (\$20) from the initial issuance of each lifetime license shall be deposited in the Fish and Game Preservation Fund for use in accordance with Section 711.

(2) The balance of the fees collected shall be deposited in the Lifetime License Trust Account which is hereby created in the Fish and Game Preservation Fund. Except as provided in this section, that principal amount of the money in the account from the fee for a lifetime license shall not be used, except for investment.

(b) The money in the Lifetime License Trust Account may be transferred and invested through the Surplus Money Investment Fund and all interest shall accrue to the account pursuant to subdivision (g) of Section 16475 of the Government Code.

(c) Upon issuance of a lifetime license or lifetime privilege issued pursuant to Section 714, 3031.2, or 7149.2, the department shall transfer the following amounts from the Lifetime License Trust Account to the Fish and Game Preservation Fund:

(1) Twenty-nine dollars and twenty-five cents (\$29.25) for an annual resident hunting license or an annual resident sport fishing license.

(2) Seven dollars and twenty-five cents (\$7.25) for a junior hunting license.

(3) Nine dollars and twenty-five cents (\$9.25) for one second-rod stamp or validation issued pursuant to Section 7149.4 or Section 7149.45.

(4) Two dollars and fifty cents (\$2.50) for one sport fishing ocean enhancement stamp or validation issued pursuant to subdivision (a) of Section 6596 or subdivision (a) of Section 6596.1.

(5) Three dollars and fifty cents (\$3.50) for one Bay-Delta sport fishing enhancement stamp or validation issued pursuant to Section 7360 or Section 7360.1.

(6) Three dollars and seventy-five cents (\$3.75) for one steelhead trout catch report-restoration card issued pursuant to Section 7380.



(7) One dollar (\$1) for one salmon punchcard issued pursuant to regulations adopted by the commission.

(8) Nineteen dollars and twenty-five cents (\$19.25) for a deer tag application issued pursuant to subdivision (a) of Section 4332.

(9) Eight dollars and seventy-five cents (\$8.75) for five wild pig tags issued pursuant to Section 4654.

(10) Ten dollars (\$10) for one state duck stamp or validation issued pursuant to Section 3700 or 3700.1.

(11) Six dollars and twenty-five cents (\$6.25) for one upland game bird stamp or validation issued pursuant to Section 3682 or 3682.1.

SEC. 30. Section 15103 of the Fish and Game Code is amended to read:

15103. (a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each registered aquaculturist shall maintain sales and production records which shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 31. Section 15104 of the Fish and Game Code is amended to read:

15104. (a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of fifty dollars (\$50).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2005 registration year, and shall be adjusted thereafter pursuant to Section 713.

SEC. 32. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction,



within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

